


**cliffdweller productions**  
llc

April 10, 2008

Received & Inspected

MAY 23 2008

FCC Mail Room

Commission's Secretary/Office of the Secretary  
 Federal Communications Commission  
 445 12<sup>th</sup> Street, SW  
 Washington, DC 20554

Attn: CGB Room 3-B431

Re: #47 C.F. R. § 79.1 (d) and 47 C.F.R. § 79.1 (f)  
 CliffDweller Productions, LLC dba HomeBuilders' Gallery Television (program title "Good For You") Petition for EXEMPTION from Closed Captioning Requirement.

To Whom it May Concern:

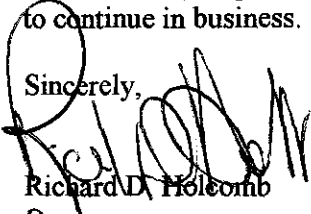
As owner of CliffDweller Productions, dba HomeBuilders' Gallery Television, please note our request to PETITION for EXEMPTION from CLOSED CAPTIONING requirement for our company. In our opinion, the evidence overwhelmingly shows an exemption be granted as a result of UNDUE FINANCIAL BURDEN IMPOSED BY CAPTIONING REQUIREMENTS.

We submit the following evidence of EXEMPTION from CLOSED CAPTIONING requirements:

1. 2004 Corporate Balance Sheet and Profit and Loss Statement – Programming provided by program provider with annual gross revenues below three million dollars.
2. Statement of Business Purpose – Describes programming provided by program provider as a local advertisement for local homebuilders and homebuilding related suppliers.
3. Statement of Burden imposed by captioning requirement.

I welcome any inquiries the F.C.C. may have to help our company obtain the exemption we need to continue in business.

Sincerely,

  
 Richard D. Holcomb  
 Owner

HomeBuilders' Gallery • CliffDweller Creative • HBG Design Studio  
 New Frontier Realtors • spirits ofthamesa.com

**Declaration:**

I, Richard D. Holcomb, am Owner of CliffDweller Productions, LLC, dba HomeBuilders' Gallery, and I have reviewed the Petition for Exemption for Closed Captioning Requirements filed on behalf of HomeBuilders' Gallery's program, "Good For You" in this matter, and, upon information and belief, believe the statements regarding our organization and HomeBuilders' Gallery Television to be true and accurate.

  
\_\_\_\_\_  
Richard D. Holcomb, Owner

4-10-08  
\_\_\_\_\_  
Date

Office of the Secretary  
Federal Communications Commission  
Attention: CGB Room 3-B431  
445 12th Street SW  
Washington, DC 20554

## **Petition for Exemption from Closed Captioning Requirements**

### **Introduction**

CliffDweller Productions, LLC, dba HomeBuilders' Gallery (Program Title: "Good For You"), for profit company, produces a local weekly television program comprised of interview segments with medical professionals, personal trainers, gyms and other companies interested in benefiting a healthy lifestyle. within the greater Albuquerque/ Santa Fe metropolitan area.

This program, Good For You, provides valuable information to the local community on the types of services and products that are available as well as information pet products, which promote a healthy environment for the pet members of a family.

Good For You is a 30-minute program, with different weekly content, that airs at 11am every Saturday morning on KASA Fox2 Television licensed to the Albuquerque/Santa Fe, New Mexico television market. The program is produced by CliffDweller Productions, LLC. The program demographics are primarily people 25+ years of age who are looking for information to help them develop a healthy lifestyle.

For the reasons set forth below, CliffDweller Productions, LLC hereby requests an undue burden exemption from the closed captioning rules for Good For You Television, pursuant to § 79.1(f) of the Commission's rules.

### **Nature and Cost of Closed Captions**

Allied Vaughn in Wisconsin has indicated they will provide roll-up closed captioning for \$730 per 30 minutes and \$842 per 30 minutes for pop-up captioning (personal communication, account representative Joanne Edmundson, September 20, 2005). Transcription for 30 minutes is \$375 additional. Closed Caption Maker of Maryland charges \$10/minute plus \$50 plus \$2/minute for transcript, or a total of \$410 per 30 minutes. A New York company, Elrom will close caption a 30minute program of \$250 including transcription but will not accept subtitles as a substitute for closed captioning.

### **Impact on the Operation of the Program Provider**

The total cost of producing and airing the Good For You television program in 2008 is estimated to be in excess of \$125,000, approximately 1/2 the total revenues to come from advertisers. We estimate the cost of closed captioning at approximately \$850 per program or \$1,600 per week for a total of \$83,200 per year.

Our current advertisers would find the additional cost of producing the programs too great to bare the additional costs and as such would force us to cease our business operations. Health Care providers normally allocate a set percentage of the cost of each patient toward advertising. This includes all in house brochures, marketing materials and other forms of advertising. The increased cost of closed captioning would price our products out of the realm of what our target advertisers would consider a reasonable cost would seek other, and more reasonably priced forms of advertising to promote their products and services. The only means of revenue CliffDweller Productions, LLC has is the advertising revenue generated from these

sponsors. The Company has no other business interests outside of this venture and would therefore be forced to cease business operations.

### **Financial Resources of the Program Provider**

KASA Fox2 has indicated they are not in a position to take on the responsibility for closed captioning would have to pass that expense onto CliffDweller Productions, LLC, who would have to outsource closed captioning to an outside vendor since the company does not have in-house production facilities or the expertise to take on this additional burden.

### **Type of Operations of the Program Provider**

CliffDweller Productions, LLC, is a sales and marketing company engaged in the for profit business of providing alternative advertising sources for companies involved in the new home building and resale home markets and health and lifestyle markets. The company uses purchased television time to broadcast targeted market programs in a non-scripted interview format that gives medical professionals and other health care providers including but not limited to gyms, spas and other venues the opportunities to showcase their services and offer reasons why viewers would want to purchase services from them. In addition, the same format is used to show and describe the services available from various suppliers who deal with a wide variety of products of interest to persons seeking to better their life through medical procedures and exercise.

The nature of the program gives these companies the opportunity to showcase their products in a format not available anywhere else and in a format of greater length than the standard :30 second commercial.

The unscripted nature of the programs and the fact that new programs are produced each week offers a very viable alternative for showcasing these services and the added burden and cost of closed captioning would eliminate this “lead source” from their marketing plans.

### **Other factors**

Petitioner believes that the local, non-news exemption to the closed captioning rules also applies to Good For You Television.<sup>1</sup> As noted above, the program is produced and distributed locally, and the content is of great interest to the viewing community in helping them select service provider and determine what products and services would fit their lifestyle. The episodes are not news, they do not have repeat value, and the electronic newsroom technique is not available. Notwithstanding the applicability of the exemption, we have filed this petition in abundance of caution and for the purpose of establishing certainty.

### **Conclusion**

While CliffDweller Productions, LLC appreciates the intent of giving greater programming access to the hearing-impaired public, the closed caption requirement will place an undue financial burden on the company, making future programming impossible and thus depriving the general public of the valuable information provided within this unique and specialized broadcast. As shown by this Petition and its attachments, the Commission should grant a waiver of the closed captioning requirements in this case, because requiring closed captioning would create an undue burden. The costs of captioning would be excessively high and would have a significant impact on Petitioner’s operations. The Petitioner’s type of

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<sup>1</sup> This exemption is self-implementing, and therefore Petitioner notes its applicability without expecting or requesting FCC action on it.

operations and financial resources are different in kind and magnitude from a mainstream programming provider. Because of the significant difficulty and expense of providing closed captions, a waiver under § 79.1(f) is warranted. If more information is needed, please contact me at the address provided below.

Respectfully submitted,

CliffDweller Productions, LLC

By:

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Richard D. Holcomb, Owner  
3971 Southern Blvd., SE Suite 101  
Rio Rancho, NM 87124  
505-891-7400

Dated: \_\_\_\_\_

DC: 1984544-1

**CERTIFICATION TO TELEVISION STATION  
OF PROGRAM COMPLIANCE WITH FCC  
CLOSED CAPTIONING REQUIREMENTS**

**Client:** CliffDweller Productions, LLC, dba HomeBuilders' Gallery

**Name of Program:** Good For You

**Television Station:** KASA – Albuquerque/Santa Fe, NM

The undersigned hereby certifies compliance with Federal Communications Commission closed captioning requirements for new programming (check A or B):

- ☐ A. The program mentioned above is closed captioned in compliance with FCC requirements.
- ☐ B. The program mentioned above is not closed captioned (check 1 or 2):
  - ☐ 1. The FCC granted a waiver on \_\_\_\_\_ that remains in effect until \_\_\_\_\_.
  - (or)
  - ☐ 2. The client requested a waiver from the FCC closed captioning requirements on 04-10-08

**Sign:** \_\_\_\_\_

**Name:** Richard D. Holcomb

**Title:** Owner

**Date:** April 10, 2008



**CERTIFICATION TO TELEVISION STATION  
OF PROGRAM COMPLIANCE WITH FCC  
CLOSED CAPTIONING REQUIREMENTS**

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**Sign:** \_\_\_\_\_  
**Name:** Richard D. Holcomb  
**Title:** Owner  
**Date:** April 10, 2008

11:37 AM  
03/07/07  
Cash Basis

# HomeBuilders' Gallery

## Profit & Loss

January through December 2006

	Jan - Dec 06
<b>Ordinary Income/Expense</b>	
Income	
Fee Income (Fee Income)	1,257,140.83
Other Income	0.00
<b>Total Income</b>	<b>1,257,140.83</b>
Expense	
Advertising	399,809.37
AGENCY Services	
Creative Services (Charge for Graphic Design)	740.64
Materials	13,218.95
Printing (Our cost to print materials)	12,940.74
<b>Total AGENCY Services</b>	<b>26,900.33</b>
Amortization	1,005.54
Automobile Expense (Automobile Expense)	
Car Rental	611.06
Gasoline (Gasoline - Company car)	4,184.02
Parking/Tolls	184.00
Repairs	6,069.64
Wash (Car Wash)	29.90
Automobile Expense (Automobile Expense) - Other	2,902.50
<b>Total Automobile Expense (Automobile Expense)</b>	<b>13,981.12</b>
Bad Debts (Unpaid invoices by Customers)	32,388.22
Bank Service Charges (Bank Service Charges)	
Credit Card Fees	1,665.31
Bank Service Charges (Bank Service Charges) - Other	-5,586.43
<b>Total Bank Service Charges (Bank Service Charges)</b>	<b>-3,921.12</b>
Computers	
Repair & Maintenance	637.62
Software	224.04
<b>Total Computers</b>	<b>861.66</b>
Contract Labor (Contract Labor)	1,600.45
Credit Card Over the Limit Fee (Creditcard over the limit fee)	58.00
Depreciation	11,921.86
Dues and Subscriptions (Dues and Subscriptions)	
AOL High Speed Internet	59.80
Dues and Subscriptions (Dues and Subscriptions) - Other	10,332.00
<b>Total Dues and Subscriptions (Dues and Subscriptions)</b>	<b>10,391.80</b>
Gifts	
Charitable Contributions	34,249.73
Gifts - Other	2,283.06
<b>Total Gifts</b>	<b>36,532.79</b>
Insurance (Insurance)	
Auto (PT Cruiser)	2,613.47
Health	
Owners portion of Health Ins (Owners portion of Health Ins)	3,466.54
Health - Other	3,058.54
<b>Total Health</b>	<b>6,525.08</b>
Life	2,139.00
Long Term Care Insurance (LTC) (LTC for Richard & Janine)	1,971.99
Workers Compensation (Workers Compensation Ins)	1,997.00
Insurance (Insurance) - Other	1,620.35
<b>Total Insurance (Insurance)</b>	<b>16,866.89</b>
Interest Expense (Interest Expense)	1,570.41
Magazine Design & Production (Contracted Services)	
Distribution (Magazine Distribution)	77,209.43
Printing and Reproduction (Printing and Reproduction)	106,304.32
Magazine Design & Production (Contracted Services) - Other	9,261.75

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03/07/07  
Cash Basis

**HomeBuilders' Gallery**  
**Profit & Loss**  
**January through December 2006**

	Jan - Dec 06
Total Magazine Design & Production (Contracted Services)	192,775.50
Miscellaneous (Miscellaneous)	-9,918.28
Office Furniture	845.00
Office Rent (Barbara Loop office)	17,074.08
Payroll	
401-K Contribution	14,400.00
Bonus Pay	2,090.00
Commission	74,717.10
Hourly	26,430.00
Mileage Reimbursement	136.00
Payroll Expenses	97.23
Payroll Taxes	21,291.90
Salary	125,618.26
Payroll - Other	-3,450.15
Total Payroll	261,330.34
Postage and Delivery (Postage and Delivery)	2,581.94
Professional Development (Professional Development)	569.95
Professional Fees (Professional Fees)	
Accounting (Accountant Fees)	22,398.26
Consultant	2,000.00
Legal Fees (Legal Fees)	2,802.36
Total Professional Fees (Professional Fees)	27,200.62
Promotion or Presentation	5,741.91
Seminars & Training	9,029.88
Supplies (Supplies)	
Marketing (Marketing Supplies)	239.13
Office (Office Supplies)	16,011.77
Supplies (Supplies) - Other	2,237.39
Total Supplies (Supplies)	18,488.29
Taxes (Taxes)	
Federal Unemploy Tax (940EZ) (Annual Federal Unemp Tax FUTA)	127.22
Gross Receipts Tax	440.45
N M DOL (Unemploy ES903A) (Employers 1/4ly Wage Tax)	38.05
Workers Comp	0.00
Workers Comp Fee Return (Workers Compensation Fee)	68.80
Taxes (Taxes) - Other	101.73
Total Taxes (Taxes)	776.25
Telephone (Telephone)	6,308.97
Television	
Laundry (HBG Clothing for TV Show)	1,881.98
Total Television	1,881.98
Travel & Ent (Travel and Entertainment)	
Airfare	6,322.91
Entertainment (Entertainment)	6,749.47
Hotel	382.34
Meals (Meals)	11,650.87
Travel (Travel)	102.78
Travel & Ent (Travel and Entertainment) - Other	10.56
Total Travel & Ent (Travel and Entertainment)	25,218.93
Utilities	1,544.63
Total Expense	1,111,417.31
Net Ordinary Income	145,723.52
Other Income/Expense	
Other Expense	
Gain/Loss on Sale of Assets	4,352.00
Non-Deductible Gifts over \$25	444.19
Penalty	30.00

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**HomeBuilders' Gallery**  
**Profit & Loss**  
January through December 2006

	Jan - Dec 06
Start Up - Expenses (Start up exp. M Your Mortgage)	-10,000.00
Total Other Expense	-5,173.81
Net Other Income	5,173.81
Net Income	<u>150,897.33</u>

# HomeBuilders' Gallery

## Balance Sheet

As of December 31, 2006

	Dec 31, 06
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
Checking (Compass Bank)	-47,095.39
Total Checking/Savings	-47,095.39
Accounts Receivable	
Accounts Receivable	14,148.02
Total Accounts Receivable	14,148.02
Total Current Assets	-32,947.37
Fixed Assets	
Accumulated Depreciation	-37,819.70
Computer Software (>\$500)	6,357.49
Computers Equipment (>\$500) (Laptop Computer Purchase)	20,743.75
Furniture & Fixtures (>\$500)	9,028.69
Office Equipment (>\$500)	4,005.02
Vehicles	20,550.94
Total Fixed Assets	22,866.19
Other Assets	
Accumulated Amortization	-4,441.14
Organizational Costs	5,027.71
Total Other Assets	586.57
<b>TOTAL ASSETS</b>	<b>-9,494.61</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	-29,695.77
Total Accounts Payable	-29,695.77
Other Current Liabilities	
401-K Pension Plan Payable (401(k) Contributions)	5,000.00
Payroll Liabilities	8,972.27
Sales Tax Payable	5,336.90
Total Other Current Liabilities	19,309.17
Total Current Liabilities	-10,386.60
Long Term Liabilities	
Malott Law Pension Fund (Buy out of Equity position)	26,600.66
Total Long Term Liabilities	26,600.66
Total Liabilities	16,214.06
Equity	
A. Malott Equity (Partner Two Equity)	
Member Capital - Malott	0.67
Total A. Malott Equity (Partner Two Equity)	0.67
R. Holcomb Equity (Partner One Equity)	
Member Capital - Holcomb	-45,055.69
R. Holcomb Draws (R. Holcomb Draws)	-150,268.47
Total R. Holcomb Equity (Partner One Equity)	-195,324.16
Retained Earnings	18,717.49
Net Income	150,897.33
Total Equity	-25,708.67
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>-9,494.61</b>